

00-*R*-1259

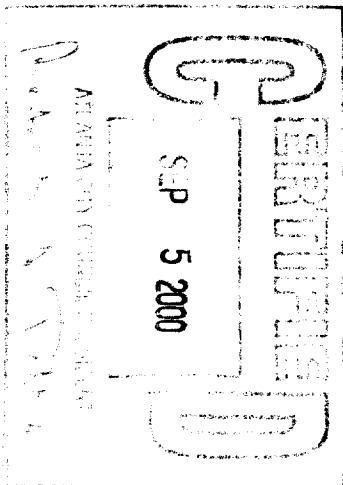
Entered - 04/06/99 - dp
CL 99L0197- GWENDOLYN BURNS

CLAIM OF: REBECCA S. CARAWAY
on behalf of her deceased husband,
Sam Caraway, through her attorney
Cale H. Conley
Butler, Wooten, Overby, Pearson, Fryhofer & Daughtery
2719 Buford Highway
Atlanta, GA 30324

For damages alleged to have been sustained as a
result of a wrongful death incident on October 2,
1998 at the construction site of the new Atlanta
Arena.

THIS ADVERSED REPORT IS
APPROVED

BY: *Rosalind Rubens Newell*
ROSALIND RUBENS NEWELL
DEPUTY CITY ATTORNEY CONSENT AGENDA



REPORT

Public Safety

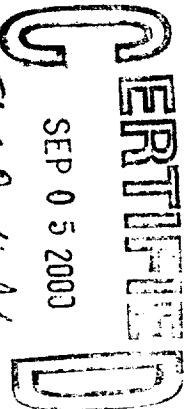
DATE *8/15/2000*

C. T. Martin

Michael Ford

Steve Hall
Cale H. Conley

ADVERSED BY
CITY COUNCIL
SEP 05 2000



Rosalind Rubens Newell
MUNICIPAL CLERK



OFFICE OF MUNICIPAL CLERK

RHONDA DAUPHIN JOHNSON, CMC
MUNICIPAL CLERK

55 TRINITY AVENUE, S.W.
SECOND FLOOR, EAST
SUITE 2700
ATLANTA, GEORGIA 30335
(404) 330-6033
FAX (404) 658-6103

September 18, 2000

Cale H. Conley
Attorney at Law
2719 Buford Highway
Atlanta, GA 30324

00-R-1259

RE: Rebecca S. Caraway on behalf of her
deceased husband, Sam Caraway

Dear Attorney Conley:

I sincerely regret that your client has been adversely affected by the circumstances raised in his/her claim for damages against the City of Atlanta. Your time and patience in this matter has been greatly appreciated.

However, I must notify you that the Atlanta City Council Adopted an Adverse Report on your client's claim at its regular meeting on January 03, 2000. In consultation with the City's Law Department, who conducted an investigation of the situation, the Council has determined that the City cannot accept responsibility for this matter and therefore cannot pay this claim.

If you desire any further information, please contact the **City Attorney's Office/Claims Division** at (404) 330-6400.

Yours very truly,

Rhonda Dauphin Johnson, CMC
Municipal Clerk

cc: **Claims Division/Law Department**

Journal of Management Education 30(6)

Date: August 3, 2000

Claimant /Victim REBECCA S. CARAWAY, on behalf of her deceased husband, SAM CARAWAY
 BY: (Atty) (Ins. Co.) Cale H. Conley, Esq., BUTLER, WOOTEN, OVERBY, PEARSON, FRYHOFFER & DAUGHTERY
 Address: 2719 Buford Highway, Atlanta, Georgia 30324
 Subrogation: _____ Claim for Property damage \$ _____ Bodily Injury \$ unspecified
 Date of Notice: 4/2/99 Method: Written, Proper X Improper _____
 Conforms to Notice: O.C.G.A. §36-33-5 _____ X _____ Ante Litem (6 Mo.) _____ X _____
 Date of Occurrence 10/2/98 Place: One CNN Center - Phillips Arena
 Department _____ Division _____
 Employee involved _____ Disciplinary Action: _____

NATURE OF CLAIM: Claimant alleges that she sustained damages as a result of the wrongful death of her husband during the construction of Phillips Arena. However, an investigation determined that the City was not involved in that project and the claimant has filed a lawsuit against the appropriate parties to resolve the issues of her claim.


INVESTIGATION:

Statements: City employee _____ Claimant _____ Others _____ Written _____ Oral _____
 Pictures _____ Diagrams _____ Reports: Police _____ Dept Report _____ Other X
 Traffic citations issued: City Driver _____ Claimant Driver _____
 Citation disposition: City Driver _____ Claimant Driver _____

BASIS OF RECOMMENDATION:

Function: Governmental _____ Ministerial _____
 Improper Notice _____ More than Six Months _____ Other X Damages reasonable _____
 City not involved X Offer rejected _____ Compromise settlement _____
 Repair/replacement by Ins. Co. _____ Repair/replacement by City Forces _____
 Claimant Negligent _____ City Negligent _____ Joint _____ Claim Abandoned _____

Respectfully submitted,


INVESTIGATOR - GWENDOLYN BURNS

RECOMMENDATION:

Pay \$ _____ Adverse ☒ X Account charged: 1A01 _____ 2J01 _____ 2H01 _____
 Claims Manager: *Donna Lee Shum* Concur/date *08/04/00*
 Committee Action: *Adverse to CC on 9/5/00* Council Action _____

Butler, Wooten, Overby, Pearson,
Fryhofer & Daughtery
Trial Lawyers

James E. Butler, Jr. *
Joel O. Wooten, Jr.
C. Frederick Overby *
Albert M. Pearson, III*
George W. Fryhofer III**
Peter J. Daughtery
Lee Tarte Wallace
Terrance C. Sullivan
Jason Crawford
Keith A. Pittman
Joshua Sacks
Teresa T. Abell
Cale H. Conley

* admitted in Ala. & Ga.

** admitted in Ga., Mass. & Tx.

2719 Buford Highway
Atlanta, Georgia 30324
(404) 321-1700
Wats 1-800-242-2962
Fax (404) 321-1713
Columbus, Georgia
(706) 322-1990
Wats 1-800-233-4086
Fax (706) 323-2962



March 30, 1999

BURNS
04/02/99
Columbus Office:
P.O. Box 2766
1500 Second Avenue
Columbus, Georgia 31902

Reply To:
Atlanta

ENTERED - 4-6-99 - SB
99L0197 - GWEN BURNS

VIA CERTIFIED MAIL/RETURN
RECEIPT REQUESTED NO. Z170098054
and VIA HAND DELIVERY
City of Atlanta, c/o Mayor Bill Campbell
Mayor's Office
City Hall
55 Trinity Avenue, S.W.
Atlanta, Georgia 30355

VIA CERTIFIED MAIL/RETURN
RECEIPT REQUESTED NO. Z170098055
and VIA HAND DELIVERY
Atlanta-Fulton County Recreation
Authority
c/o Ms. Davetta Johnson Mitchell,
Executive Director
755 Hank Aaron Drive, S.W.
Atlanta, Georgia 30315

Re: Ante Litem Notice Pursuant to O.C.G.A. § 36-33-5 of Claims for All Recoverable
Damages Arising From the Death of Sam Caraway on October 2, 1998, at the Site of
the New Atlanta Arena

To The City of Atlanta and the Atlanta-Fulton County Recreational Authority,
By and Through Mayor Campbell and Ms. Mitchell:

This law firm represents the estate of Sam Caraway, Sr., deceased, as well as the personal representative of Mr. Caraway's estate, his wife, Becky Caraway. Mr. Caraway was killed at or around 8:00 p.m. on October 2, 1998 at the construction site of the new Atlanta Arena in downtown Atlanta when a pre-cast concrete seating section on which he was working plummeted to the ground. Mr. Caraway was a healthy, 38-year-old man. He and Becky had four children — including his son Jay, who was working at the job site when the incident occurred and personally witnessed his father's death. It is our understanding that the City of Atlanta ("the City") and the Atlanta-Fulton County Recreation Authority ("the Authority") are among the owners of the Atlanta Arena.

This law firm intends to initiate legal action against the City and/or the Authority, among others, for all recoverable damages which could be obtained by the estate of Sam

The City of Atlanta and the Atlanta-Fulton County Recreational Authority,
By and Through Mayor Campbell and Ms. Mitchell
March 30, 1999
Page 2

Caraway or his personal representative, Becky, arising from Mr. Caraway's tragic death. The basis of our claims against the City and/or the Authority stems from negligence in the design and construction of the building, including but not limited to the selection and authorization of the materials and design implemented in the arena and the overall manner in which the Arena was constructed. To the extent that the City or the Authority, either individually, through its agents under the doctrine of respondeat superior, or as joint venturers with others, were negligent in their oversight and authorization of the design and construction of the Arena, we will seek all damages recoverable under Georgia law in an amount to be determined at trial by the enlightened conscience of the jury.

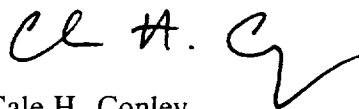
This letter is written pursuant to O.C.G.A. § 36-33-5 in a timely manner and acts as formal presentation to you, the governing authority for adjustment of the claims on behalf of Mr. Caraway's estate and personal representative, of notice of these claims. Also pursuant to the statute, we ask that you consider and act upon this claim within 30 days of this letter. As contemplated by the statute, any action by you short of a full settlement of this claim will not in any sense bar a civil action by the estate of Mr. Caraway against the City and/or the Authority, or others, in the appropriate court of law.

We are serving this letter on the City of Atlanta as the governing authority over all other agencies and authorities which have or may be claimed to have jurisdiction of the Arena. If for any reason you contend that we have not notified the correct entities, please inform us in writing as to the nature of such contentions immediately.

If you or someone on your respective legal staffs wish to discuss this matter, I would be happy to arrange a meeting.

Sincerely,

BUTLER, WOOTEN, OVERBY, PEARSON
FRYHOFFER & DAUGHTERY



Cale H. Conley

CHC/bt

cc: Clifford E. Hardwick, IV
(Via Fax to 404/658-6894)
City Attorney, City of Atlanta
68 Mitchell Street, S.W., Atlanta, Georgia

00- -1259

RCS# 2194
9/05/00
2:17 PM

Atlanta City Council

Regular Session

CONSENT

Pages: 1-12

Adopt

YEAS: 13
NAYS: 0
ABSTENTIONS: 0
NOT VOTING: 3
EXCUSED: 0
ABSENT 0

SEE ATTACHED LISTING OF
ITEMS ADOPTED/ADVERSED
ON CONSENT AGENDA

Y McCarty	Y Dorsey	Y Moore	Y Thomas	ITEM (S) REMOVED FROM <u>CONSENT AGENDA</u> 00-O-1007 00-R-1309
Y Starnes	NV Woolard	Y Martin	Y Emmons	
NV Bond	Y Morris	Y Maddox	Y Alexander	
Y Winslow	Y Muller	Y Boazman	NV Pitts	

CONSENT

09/05/00 Council Meeting	
ITEMS ADOPTED ON CONSENT AGENDA	ITEMS ADVERSED ON CONSENT AGENDA
<ol style="list-style-type: none"> 1. 00-O-1102 2. 00-O-1143 3. 00-O-1207 4. 00-O-1295 5. 00-O-1303 6. 00-O-1313 7. 00-O-1124 8. 00-O-1125 9. 00-O-1126 10. 00-O-1127 11. 00-O-1128 12. 00-O-1133 13. 00-O-1196 14. 00-O-1298 15. 00-O-1122 16. 00-O-1300 17. 00-R-1198 18. 00-R-1230 19. 00-R-1290 20. 00-R-1312 21. 00-R-1316 22. 00-R-1265 23. 00-R-1266 24. 00-R-1267 25. 00-R-1268 26. 00-R-1270 27. 00-R-1314 28. 00-R-1229 29. 00-R-1233 30. 00-R-0886 31. 00-R-1236 32. 00-R-1237 33. 00-R-1238 34. 00-R-1239 35. 00-R-1240 36. 00-R-0241 37. 00-R-1242 38. 00-R-1243 39. 00-R-1244 	<ol style="list-style-type: none"> 40. 00-R-1235 41. 00-R-1245 42. 00-R-1246 43. 00-R-1247 44. 00-R-1248 45. 00-R-1249 46. 00-R-1250 47. 00-R-1251 48. 00-R-1252 49. 00-R-1253 50. 00-R-1254 51. 00-R-1255 52. 00-R-1256 53. 00-R-1257 54. 00-R-1258 55. 00-R-1259 56. 00-R-1260 57. 00-R-1261 58. 00-R-1262 59. 00-R-1263 60. 00-R-1264